



# MEDICAL ASSISTANCE ESTATE RECOVERY PROGRAM

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## **WHAT IS ESTATE RECOVERY?**

Estate Recovery is a federally mandated program to help pay for medical costs for the increasing number of people in need of care. The Colorado Department of Health Care Policy and Financing recovers medical care costs from the estates of certain former recipients.

## **WHO WILL BE AFFECTED BY ESTATE RECOVERY?**

The Department may recover the costs of medical assistance from the estates of institutionalized clients OR persons age 55 and older who receive medical assistance in any living situation.

## **DOES ESTATE RECOVERY AFFECT A RECIPIENT'S ELIGIBILITY OR BENEFITS?**

No. This program does not affect eligibility or exempt property that can be held by a living recipient for eligibility determination.

## **WHAT COSTS WILL BE RECOVERED BY THE ESTATE RECOVERY PROGRAM?**

ALL payments made by Medicaid will be recovered in the Estate Recovery process. Payments include, but are not limited to: payments made to providers on behalf of the client, capitation fees paid on behalf of the client, cost sharing for Medicare and private insurance coverage (e.g. premiums, coinsurance, deductibles, etc.), etc.

## **WILL ANY ESTATES BE EXEMPT FROM RECOVERY?**

The Department will not recover medical assistance costs from the sale of a deceased recipient's home if:

- 1) The deceased recipient is survived by a spouse, child under age 21, or blind or disabled dependent residing in the home.

OR

- 2) There is a brother or sister who lived in the home for at least one year before the recipient went into a nursing facility, and who has lived there continuously since the date of the nursing facility entry.

OR

- 3) There is a son or daughter who lived in the home for at least two years before the recipient entered a nursing facility, whose care allowed the recipient to delay nursing facility placement, and who has lived in the home continuously since the date of the nursing facility entry.

## **HOW WILL ESTATE RECOVERY BE ACCOMPLISHED?**

The Department will file a claim against the estate of a deceased medical assistance recipient. The estate will include all of the property (personal and real) that is left when the recipient passes. The personal representative handling the estate will use money from the sale of the property in the estate to pay the Department for the costs of medical care provided to the recipient.

## **DOES THE PROGRAM REQUIRE A RECIPIENT TO SELL A HOME?**

No. The program does not require a medical assistance recipient to sell a home. However, the Department may place a lien on the property while the recipient is alive. A lien secures property so that medical costs can be recovered by the Department when the property is sold.

A lien on property does not change the ownership of the property. It only represents a debt that must be satisfied when the property is sold. Liens will be used when ALL of the following conditions are met:

- 1) The recipient lives in a nursing facility.
- 2) The recipient owns a home or other real property.
- 3) The Department determines that the recipient is not likely to return to the property. This determination is made by the Department's peer review organization.
- 4) The nursing facility resident does not have a spouse, child under age 21, or blind or disable dependent living in the home.
- 5) The recipient does not have a brother or a sister who is part owner of the home and who has lived in the home continuously since at least one year prior to the recipient entering the nursing facility.

If a nursing facility resident is discharged and returns home to live, the Department will dissolve any lien it has on the recipient's home or other property within thirty (30) days.

## **CAN A RECIPIENT'S HEIRS KEEP THE PROPERTY FROM THE ESTATE AND PAY THE DEPARTMENT THE AMOUNT THEY INTEND TO RECOVER?**

Yes. If the heirs wish to receive the property that is in the estate they may do so as long as they agree to pay the amount the Department would have otherwise recovered. If the heirs are not able to pay the full amount of the claim at the time the estate is settled, the Department may arrange a payment plan.

## **ARE THERE EXEMPTIONS IF ESTATE RECOVERY WOULD CAUSE A HARDSHIP?**

Yes. The Department will not recover from an estate if doing so would cause a hardship for the heirs. The heirs may submit a request to waive or compromise the recovery of medical assistance costs from the estate on the basis of hardship. Determination of hardship is at the discretion of the Department.